

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ERNEST GREEN,
a/k/a "Ern,"
RODDHAUN BLACK,
a/k/a "Rashaun Black" a/k/a "Shaun,"
DANIEL RODRIGUEZ,
a/k/a "Danny,"

Defendants.

ORDER
12-CR-83S (1)(2)(3)

On February 8, 2018, this Court dismissed the remaining counts in the superseding indictment with prejudice on constitutional speedy-trial grounds. United States v. Green, 12-CR-83S (1)(2)(3), 2018 WL 786185 (W.D.N.Y. Feb. 8, 2018).

At a status conference the following day, given the interests that both sides have in the defendants' custody status, this Court stayed consideration of the defendants' custody status for three days until February 12, 2018, to allow the government to determine whether it would file an immediate Notice of Appeal.

On February 12, 2018, the government filed a Motion for Reconsideration. (Docket No. 784.)

The following day, the defendants filed a Motion for Release from Custody (Docket No. 785) and the government filed a Motion to Extend the Stay ordered on February 9, 2018, pending this Court's decision on its Motion for Reconsideration (Docket No. 786).

Having considered the motions, this Court now rules as follows. The

government's Motion for Reconsideration is DENIED, with decision to follow. The government's Motion to Extend the Stay is GRANTED. The stay is extended through 5:00 p.m. on February 13, 2018, to allow the government the further opportunity to file a Notice of Appeal.¹ This Court will resolve all custody-related motions (Docket Nos. 757, 759, 785) and determine the defendants' custody status following expiration of the stay, which will not be further extended.

Date: February 13, 2018
Buffalo, NY

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge

¹ This Court is aware that the government is permitted 30 days within which to file a Notice of Appeal, and it does not seek to infringe on the government's discretion in this regard. See Fed. R. App. Proc. 4 (b)(1)(B). But the defendants' have an interest in the swift resolution of their custody status. Should the government elect not to file a Notice of Appeal by 5:00 p.m. today, this Court will determine the defendants' custody status without consideration of 18 U.S.C. § 3143 (c), unless, before expiration of the stay, the government files authority for this Court's consideration of that statute in the absence of a Notice of Appeal or some other authority for the continuation of the defendants' pretrial detention in light of the superseding indictment having been dismissed with prejudice.